

Atty Docket No. 02307O-010130U5

PTO FAX NO.: 571-273-0747

ATTENTION: Examiner Carla Myers

Group Art Unit 1632

**TO**  
**EXAMINER Carla Myers**

**CERTIFICATION OF FACSIMILE TRANSMISSION**

Attached are copies of the documents you requested. I hereby certify that the following documents in re Application of Spindler, Stephen R. and Joseph M. Dhahbi, Application No. 10/056,749, filed January 22, 2002 for INTERVENTIONS TO MIMIC THE EFFECTS OF CALORIE RESTRICTION are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Copy of Decision on Petition Under 37 CFR 1.78(a)(3) mailed April 2, 2003; and
2. Copy of Petition for Benefit of Prior Filed Copending Nonprovisional Application with attendant documents filed December 13, 2002, attaching copy of return postcard dated stamped December 19, 2002.

Number of pages being transmitted, including this page: 17

Dated: 12/28/2005

  
Dana Kane

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RETURN FACSIMILE AT (415) 576-0300***

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, CA 94111-3834  
Telephone: 415-576-0200  
Fax: 415-576-0300  
0466s

60667908 v1



## United States Patent and Trademark Office

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

**Paper No. 17**

**TOWNSEND AND TOWNSEND AND CREW  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO CA 94111-3834**

**COPY MAILED**

APR 02 2003

**In re Application of  
Stephen R. Spindler  
Application No. 10/056,749  
Filed: January 22, 2002  
Attorney Docket No. 02307O-010130US**

OFFICE OF PETITIONS

: DECISION ON PETITION  
: UNDER 37 CFR 1.78(a)(3)

**This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 19, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/471,224, filed December 23, 1999, set forth in the application data sheet filed concurrently with the instant petition.**

The petition is **GRANTED.**

**A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:**

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;<sup>1</sup>
- (2) the surcharge set forth in § 1.17(t); and

<sup>1</sup> Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

Application No. 10/056,749

Page 2

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on January 22, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an application data sheet, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

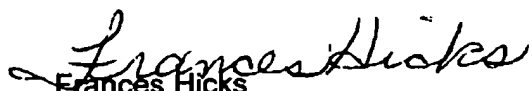
A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

Application No. 10/056,749

Page 3

This application is being forwarded to Technology Center Art Unit 1634 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/471,224, filed December 23, 1999.



Frances Hicks

Lead Petitions Examiner

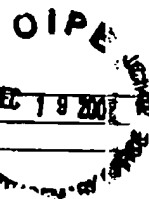
Office of Petitions

Office of the Deputy Commissioner  
for Patent Examination Policy

**ATTACHMENT:** Corrected Filing Receipt

TO THE U.S. PATENT OFFICE  
FILING ACKNOWLEDGMENT

Mailing Date: Dec. 13, 2002 File No.: 023070-010130US  
Due Date: \_\_\_\_\_ Attorney: KLB/sjw  
Appln. No.: 10/056,749  
Inventor(s): Spindler, Stephen R.  
Title: INTERVENTIONS TO MIMIC THE EFFECTS OF CALORIE RESTRICTION



Petition for the Benefit of a Prior Filed Copending Nonprovisional Application under 37 CFR 1.78(A)(3); Request for Corrected Filing Receipt; Updated ADS; Suppl. ADS w/ tracked changes; copy of Certificate of Correction; Fee Transmittal form PTO/SB/17; and Transmittal Form PTO/SB/21

Please stamp the date of receipt of the enclosed documents and return this card to addressee

SF 1413126 v1

Please type a plus sign (+) inside this box → ☒

Approved for use through 10/31/2002. OMB 0651-003

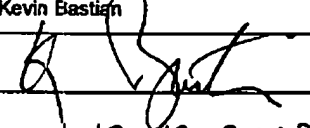
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.


<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/058,749	
	Filing Date	January 22, 2002	
	First Named Inventor	Spindler, Stephen R.	
	Group Art Unit	not yet assigned	
	Examiner Name	not yet assigned	
Total Number of Pages in This Submission	1	Attorney Docket Number	023070-010130US

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Petition for the Benefit of a Prior Filed Copending Nonprovisional Application under 37 CFR 1.78(A)(3); Request for Corrected Filing Receipt; Updated ADS; Suppl. ADS w/ tracked changes; copy of Certificate of Correction and Return Postcard
		Remarks  The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm and Individual name	Townsend and Townsend and Crew LLP	
	Kevin Bastian	Reg. No. 34,774
Signature		
Date	12-13-2002	

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on this date:		
<div style="border: 1px solid black; padding: 2px;">12/13/2002</div>		
Typed or printed name	Catherine Lindorfer	
Signature		Date 12/13/2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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# FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1280

## Complete if Known

Application Number 10/056,749  
 Filing Date January 22, 2002  
 First Named Inventor Splindler, Stephen R.  
 Examiner Name not yet assigned  
 Group Art Unit not yet assigned  
 Attorney Docket No. 023070-010130US

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number

20-1430

Deposit  
Account  
Name

Townsend and Townsend and Crew LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1001	740	Utility filing fee	
		1002	330	Design filing fee	
		1003	510	Plant filing fee	
		1004	740	Reissue filing fee	
		1005	160	Provisional filing fee	

SUBTOTAL (1)

(3)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims			
Multiple Dependent			

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description
		1202	18	Claims in excess of 20
		1201	84	Independent claims in excess of 3
		1203	280	Multiple dependent claim, if not paid
		1204	84	Reissue independent claims over original patent
		1205	18	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(3)

\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	400	2252	200	Extension for reply within second month	
1253	920	2253	480	Extension for reply within third month	
1254	1,440	2254	720	Extension for reply within fourth month	
1255	1,960	2255	980	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	65	Petition to revive - unavoidable	
1453	1,280	2453	640	Petition to revive - unintentional	
1501	1,280	2501	640	Utility issue fee (or reissue)	
1502	480	2502	230	Design issue fee	
1503	620	2503	310	Plant issue fee	
1480	130	1480	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	740	2801	370	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) Pet. for acceptance of an unintentionally delayed claim for priority 1.17(t)

1280

\*Reduced by Basic Filing Fee Paid SUBTOTAL (3)

(3)1280

## SUBMITTED BY

Name (Print/Type)

Kevin Bastian

Registration No. (Attorney/Agent)

34,774

Telephone

415-576-0200

Signature

Date

12-13-2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. SF 1413088 v1

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**PATENT**  
Attorney Docket No.: 023070-010130US  
Client Ref. No.: 2000-178-3

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

On December 13, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Cather Lindofer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Spindler, Stephen R.

Application No.: 10/056,749

Filed: January 22, 2002

For: INTERVENTIONS TO MIMIC  
THE EFFECTS OF CALORIE  
RESTRICTION

Examiner: not yet assigned

Art Unit: not yet assigned

PETITION FOR THE BENEFIT OF A  
PRIOR FILED COPENDING  
NONPROVISIONAL APPLICATION  
UNDER 37 C.F.R. §1.78(A)(3)

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants hereby petition for a claim for the benefit of a prior filed copending nonprovisional application. A reference to a prior filed copending nonprovisional application was unintentionally not submitted with the application at the time of filing.

Applicants request the benefit of a prior filed copending nonprovisional application and submit herewith (1) the petition fee pursuant to 37 C.F.R. §1.17(t), (2) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2) and the date of filing the claim, was unintentional, (3) a Request for Corrected Filing Receipt, (4) an Updated Application Data Sheet (clean copy) and a copy of the Supplemental Application Data Sheet dated 5/16/02 with tracked changes, (5) and



Spindler, Stephen R.  
Application No.: 10/056,749  
Page 2

PATENT

a copy of the Certificate of Correction correcting the priority application number (to 09/471,224) for the parent application (now U.S. Patent No. 6,406,853) of this pending application.

REMARKS

Applicants state that the entire delay in filing the claim for the benefit of priority of a prior filed copending nonprovisional application, from the due date for the claim under 37 C.F.R. §1.78(a)(2) until the filing of a grantable petition pursuant to 37 CFR 1.78(a)(3), was unintentional.

CONCLUSION

Because the entire delay in filing the claim for the benefit of priority of a prior filed copending nonprovisional application, from the due date for the claim under 37 C.F.R. §1.78(a)(2) until the filing of a grantable petition pursuant to 37 CFR 1.78(a)(3), including any delay from the date of discovery of the failure to submit the claim, was unintentional, Applicants ask for the Examiner's forbearance and respectfully request that the petition for the claim for the benefit of priority of a prior filed copending nonprovisional application be granted at an early date.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

  
Kevin Bastian  
Reg. No. 34,774

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: (415) 576-0300  
KLB:cjl  
SF 1412735 v1

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Attorney Docket No.: 023070-01  
Client Ref. No.: 2010-178-3

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

On December 13, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Cather Lindorfer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Spindler, Stephen R.

Application No.: 10/056,749

Filed: January 22, 2002

For: INTERVENTIONS TO MIMIC THE  
EFFECTS OF CALORIE RESTRICTION

Examiner: unassigned

Art Unit: unassigned

REQUEST FOR CORRECTED FILING  
RECEIPT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Attached is a copy of an Updated Application Data Sheet (and the Supplemental Application Data Sheet with tracked changes) in the above-noted application for which issuance of a corrected filing receipt is respectfully requested.

There are errors pertaining to the priority information. Kindly change the priority information as follows:

THIS APPLICATION IS A CONTINUATION OF 09/648,642 08/25/2000  
(now US Pat No 6,406,853)  
WHICH IS A CIP OF 09/471,224 12/23/1999

Respectfully submitted,

Kevin L. Bastian  
Reg. No. 34,774

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8th Floor  
San Francisco, California 94111-3834  
Tel: (415) 576-0200; Fax: (415) 576-0300  
KLB/cjl  
SF 1413042 v1

UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 6,406,853 B1  
DATED : June 18, 2002  
INVENTOR(S) : Spindler

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1.

Lines 4 and 5, delete "U.S. application Ser. No. 09/471,225" and replace with  
— U.S. application Ser. No. 09/471,224 —.



Attest:

*Brenda Moore*

Attesting Officer

Signed and Sealed this

Twenty-sixth Day of November, 2002

A handwritten signature in black ink, appearing to read "James E. Rogan", written over a horizontal line.

JAMES E. ROGAN  
Director of the United States Patent and Trademark Office

**Application Data Sheet****Application Information**

Application number:: 10/056,749  
Filing Date:: 01/22/02  
Application Type:: Regular  
Subject Matter:: Utility  
Suggested classification::  
Suggested Group Art Unit::  
CD-ROM or CD-R??:  
Number of CD disks::  
Number of copies of CDs::  
Sequence Submission::  
Computer Readable Form (CRF)?::  
Number of copies of CRF::  
Title:: INTERVENTIONS TO MIMIC THE EFFECTS  
OF CALORIE RESTRICTION  
Attorney Docket Number:: 023070-010130US  
Request for Early Publication:: No  
Request for Non-Publication:: No  
Suggested Drawing Figure::  
Total Drawing Sheets:: 013  
Small Entity?:: Yes  
Latin name::  
Variety denomination name::  
Petition included?:: No  
Petition Type::  
Licensed US Govt. Agency::  
Contract or Grant Numbers One::  
Secrecy Order in Parent Appl.: No

**Applicant Information**

Applicant Authority Type:: Inventor  
Primary Citizenship Country:: US  
Status:: Full Capacity  
Given Name:: Stephen  
Middle Name:: R.  
Family Name:: Spindler  
Name Suffix::  
City of Residence:: Riverside  
State or Province of Residence:: CA  
Country of Residence:: US  
Street of Mailing Address:: 6184 Omega St.  
City of Mailing Address:: Riverside  
State or Province of mailing address:: CA  
Country of mailing address::  
Postal or Zip Code of mailing address:: 92506

**Correspondence Information**

Correspondence Customer Number:: 20350

**Representative Information**

Representative Customer Number:: 20350

**Domestic Priority Information**

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	Continuation of	09/648,642 (now US Patent No. 6,406,853)	08/25/2000
	Continuation in part of	09/471,224	12/23/1999

**Assignee Information**

**Assignee Name::** The Regents of the University of California  
**Street of mailing address::**  
**City of mailing address::**  
**State or Province of mailing address::**  
**Country of mailing address::**  
**Postal or Zip Code of mailing address::**

**Application Data Sheet****Application Information**

Application number:: 10/056,749  
Filing Date:: 01/22/02  
Application Type:: Regular  
Subject Matter:: Utility  
Suggested classification::  
Suggested Group Art Unit::  
CD-ROM or CD-R??:  
Number of CD disks::  
Number of copies of CDs::  
Sequence Submission::  
Computer Readable Form (CRF)?::  
Number of copies of CRF::  
Title:: INTERVENTIONS TO MIMIC THE EFFECTS  
OF CALORIE RESTRICTION  
Attorney Docket Number:: 02307O-010130US  
Request for Early Publication:: No  
Request for Non-Publication:: No  
Suggested Drawing Figure::  
Total Drawing Sheets:: 013  
Small Entity?:: Yes  
Latin name::  
Variety denomination name::  
Petition included?:: No  
Petition Type::  
Licensed US Govt. Agency::  
Contract or Grant Numbers One::  
Secrecy Order in Parent Appl.: No

**Applicant Information**

Applicant Authority Type:: Inventor  
 Primary Citizenship Country:: US  
 Status:: Full Capacity  
 Given Name:: Stephen  
 Middle Name:: R.  
 Family Name:: Spindler  
 Name Suffix::  
 City of Residence:: Riverside  
 State or Province of Residence:: CA  
 Country of Residence:: US  
 Street of Mailing Address:: ~~6475 Vickers Drive~~ 6184 Omega St.  
 City of Mailing Address:: Riverside  
 State or Province of mailing address:: CA  
 Country of mailing address::  
 Postal or Zip Code of mailing address:: ~~92604~~ 92506

**Correspondence Information**

Correspondence Customer Number:: 20350

**Representative Information**

Representative Customer Number:: 20350

**Domestic Priority Information**

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	Continuation of	09/648,642 <u>(now US Patent No. 6,406,853)</u>	08/25/00 <u>2000</u>
	<u>Continuation in part of</u>	<u>09/471,224</u>	<u>12/23/1999</u>



**Assignee Information**

Assignee Name:: The Regents of the University of California  
Street of mailing address::  
City of mailing address::  
State or Province of mailing address::  
Country of mailing address::  
Postal or Zip Code of mailing address::